

REMARKS

Claims 8-13 and 17-23 are currently pending in this application as amended. Claims 8, 18, and 23 have been amended to recite that the display housing has a permanently fixed orientation with respect to the rear-mounted support stand. Support for these amendments may be found, for example, at least in original Figs. 1-5, and in the original Specification at page 4, line 20 through page 5, line 2; and page 5, lines 19-29. Accordingly, no new matter has been added.

Entry of Amendment After Final

Applicant respectfully submits that (1) no new matter has been added to the application by the Amendment; (2) the Amendment resolves all issues raised by the Examiner in the Office Action mailed August 18, 2009; (3) the subject matter of the Amendment has been included in the Examiner's search and therefore does not require the Examiner to perform further searching; and (4) the Amendment places the application in condition for allowance and in better form for an appeal if needed. Consequently, Applicants respectfully request that the Amendment After Final Rejection be entered in accordance with 37 C.F.R. § 1.116 and MPEP § 714.13.

Examiner's Suggestion

Applicant wishes to thank the Examiner for the suggestion for clarifying the claim language proposed on page 2 of the Office Action. Although Applicant disagrees with the Examiner's interpretation of the reference as rendering the claims unpatentable, Applicant has amended the claims as suggested for the purpose of advancing the prosecution.

Claim Rejections Under 35 U.S.C. §§ 102(e), 103(a)

Claims 8-11, 13, and 17-23 have been rejected under 35 U.S.C. § 102(e), or alternatively under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2003/0060270 ("Binkley"). Applicant respectfully traverses the rejection and requests that the rejection of claims 8-11, 13, and 17-23 be withdrawn in view of the foregoing amendments to the claims and for at least the following reasons.

Claims 8, 18, and 23, as amended, are directed to a flatscreen touchscreen table-top amusement device with a display housing and a rear-mounted support stand and each includes, *inter alia*, as follows (emphasis added):

the display housing having a permanently fixed orientation relative to the rear-mounted support stand

Referring to Figs. 5-6, Binkley discloses a gaming terminal 10" having a monitor 16" resting on a support surface 21" of an upper portion 12U" of a base 12". A support arm 22" with lateral protruding members 22a", 22b" are received in arcuate recesses 23a", 23b" in the upper portion 12U" for moving the monitor 16" to a desired position relative to the base 12". See paragraph [0040]. A middle portion 12M" of the base 12", located below the monitor 16", includes a card reader 15 and payment apparatus 122". See paragraph [0037]. Further, the express object of Binkley is to provide a gaming terminal with adjustable components so that a gamer may play a game in a comfortable position, "which may significantly increase the duration of time a gamer will remain at that gaming terminal." See paragraphs [0002], [0008], [0026].

As the Examiner acknowledges, claims 8, 18, and 23, which call for the display housing to have a permanently fixed orientation with respect to the rear-mounted support stand, are not anticipated by Binkley since this feature is explicitly missing. Further, Binkley cannot be properly modified to meet the elements of claims 8, 18, and 23 because Binkley explicitly teaches away from the device claimed. M.P.E.P. § 2145(X)(D)(2) ("It is improper to combine references where the references teach away from their combination"). As described above, the express object of Binkley is to provide a gamer with an adjustable display in order to maximize comfort of the user, thereby permitting the user to be present at the gaming device for a longer duration. Any modification to Binkley to make the display housing orientation permanently fixed with respect to the rear-mounted support stand would completely eviscerate the entire object of Binkley's invention. M.P.E.P. §§ 2143.01(V), 2145(III).

Accordingly, because Binkley does not include, and cannot properly be modified to include a display housing having a permanently fixed orientation with respect to the rear-mounted support stand, Binkley cannot anticipate or, in combination with any other reference render obvious, claims 8, 18, or 23. Applicant therefore respectfully requests that the rejections of claims 8, 18, and 23 be withdrawn.

Claims 9-11, 13, 19, and 21 are dependent upon claim 8. Applicant respectfully requests that the rejection of claims 9-11, 13, 19, and 22 based upon Binkley be withdrawn due to at least to their dependence on claim 8.

Claims 20 and 22 are dependent upon claim 18. Applicant respectfully requests that the rejection of claims 20 and 22 based upon Binkley be withdrawn due to at least to their dependence on claim 18.

Claim Rejection Under 35 U.S.C. § 103(a)

Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Binkley. Applicant respectfully traverses the rejection and requests that the rejection of claim 12 be withdrawn in view of the foregoing claim amendments and for at least the following reasons.

Claim 12 is dependent upon claim 8. As described above, Binkley fails to teach, suggest, or disclose at least one element of claim 8 as amended, namely, the display housing having a permanently fixed orientation with respect to the rear-mounted support stand. The Examiner's rejection does not cite any other reference, and therefore the deficiency of Binkley as a prior art reference is not ameliorated. Thus, even if the Examiner's proposed modification was correct, which Applicant does not admit, claim 12 still would not have been obvious over Binkley for the reasons cited above. Accordingly, Applicant respectfully requests that the rejection of claim 12 based upon obviousness by Binkley be withdrawn due to at least its dependence on claim 8.

CONCLUSION

In view of the foregoing Amendment and Remarks, it is respectfully submitted that the present application including claims 8-13 and 17-23 is in condition for allowance and such action is respectfully requested.

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Respectfully submitted,

By 
John D. Simmons

Registration No.: 52,225

PANITCH SCHWARZE BELISARIO & NADEL LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, Pennsylvania 19103
(215) 965-1268
(215) 965-1331 (Fax)
jsimmons@panitchlaw.com (E-Mail)

JDS/SEM
154847